

AGENDA



BERKELEY CITY COUNCIL MEETING

TUESDAY, FEBRUARY 28, 2012

7:00 P.M.

COUNCIL CHAMBERS - 2134 MARTIN LUTHER KING JR. WAY

TOM BATES, MAYOR

Councilmembers:

DISTRICT 1 – LINDA MAIO
DISTRICT 2 – DARRYL MOORE
DISTRICT 3 – MAX ANDERSON
DISTRICT 4 – JESSE ARREGUIN

DISTRICT 5 – LAURIE CAPITELLI
DISTRICT 6 – SUSAN WENGRAF
DISTRICT 7 – KRISS WORTHINGTON
DISTRICT 8 – GORDON WOZNIAK

This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, CMC, Acting City Clerk, 981-6900.

The City Council may take action related to any subject listed on the Agenda. The Mayor may exercise a two minute speaking limitation to comments from Councilmembers. Meetings will adjourn at 11:00 p.m. - any items outstanding at that time will be carried over to a date/time to be specified.

Preliminary Matters

Roll Call:

Ceremonial Matters: *In addition to those items listed on the agenda, the Mayor may add additional ceremonial matters.*

City Manager Comments: *The City Manager may make announcements or provide information to the City Council in the form of an oral report. The Council will not take action on such items but may request the City Manager place a report on a future agenda for discussion.*

Public Comment on Non-Agenda Matters: *Five persons selected by lottery will have two minutes each to address matters not on the Council agenda. Persons wishing to address the Council on matters not on the Council agenda during the initial ten-minute period for such comment, must submit a name card to the City Clerk in person at the meeting location and prior to commencement of that meeting. Five cards will be drawn by the City Clerk to determine the speakers who will be allowed to comment during the first round of public comment on non-agenda matters. The remainder of the speakers wishing to address the Council on non-agenda items will be heard at the end of the agenda. Name cards are not required for this second round of public comment on non-agenda matters.*

Public Comment on Consent Calendar and Information Items Only: *The Council will take public comment on any items that are either on the amended Consent Calendar or the Information Calendar. Up to three speakers will be entitled to two minutes each to speak in opposition to or support of a Consent Calendar Item. The Presiding Officer will ask additional persons in the audience to stand to demonstrate their respective opposition to or support of the item.*

In the event that there are more than three persons wishing to speak either in opposition to or support of a "Consent" item, the Presiding Officer will move the item to the beginning of the Action Calendar. Prior to moving the item, the Presiding Officer will fully inform those persons in the audience of this process.

Additional information regarding public comment by City of Berkeley employees and interns: Employees and interns of the City of Berkeley, although not required, are encouraged to identify themselves as such, the department in which they work and state whether they are speaking as an individual or in their official capacity when addressing the Council in open session or workshops.

Consent Calendar

The Council will first determine whether to move items on the agenda for action or "Information" to the "Consent Calendar", or move "Consent Calendar" items to action. Items that remain on the "Consent Calendar" are voted on in one motion as a group. "Information" items are not discussed or acted upon at the Council meeting unless they are moved to "Action" or "Consent".

After hearing from public speakers regarding items remaining on the Consent Calendar, any Council Member may move any Information or Consent item to "Action", however no additional items can be moved onto the Consent Calendar at that point. Following this, the Council will vote on the items remaining on the Consent Calendar in one motion.

For items removed from the Consent Calendar to the Action Calendar for additional public comment, at the time the matter is taken up during the Action Calendar, public comment will be limited to persons who have not previously addressed that item during the Consent Calendar related public comment period.

1. Organizational Changes to the Health, Housing and Community Services Department, Repealing and Reenacting BMC Chapter 2.50 and Repealing Chapter 2.62

From: City Manager

Recommendation: Adopt second reading of Ordinance No. 7,227–N.S. repealing and reenacting Berkeley Municipal Code Chapter 2.50 and repealing Chapter 2.62 to reflect organizational changes to the Health, Housing and Community Services Department.

Financial Implications: See report

Contact: Christine Daniel, Interim City Manager, 981-7000

2. Settlement of Peterson v. City of Berkeley

From: City Manager

Recommendation: Adopt a Resolution approving the settlement of the San Francisco Superior Court Action No. CGC- 09-494798 (Consolidated with Case No. CGC 10-500217) entitled Christine Peterson v. City and County of San Francisco; City of Berkeley, et al. in the amount of \$56,000.

Financial Implications: Public Liability Fund - \$56,000

Contact: Zach Cowan, City Attorney, 981-6950

Consent Calendar

3. **Berkeley Redevelopment Agency Minutes for Approval**

From: City Manager

Recommendation: Acting as the Successor Agency for the Berkeley Redevelopment Agency, approve the minutes for the Redevelopment Agency's final meeting of January 31, 2012 (regular).

Financial Implications: None

Contact: Mark Numainville, Acting City Clerk, 981-6900

4. **Minutes for Approval**

From: City Manager

Recommendation: Approve the minutes for the Council meetings of January 17, 2012 (regular) and January 31, 2012 (special closed and regular).

Financial Implications: None

Contact: Mark Numainville, Acting City Clerk, 981-6900

5. **Donations to the Animal Shelter: The Stephen and Mary Birch Foundation, The Chao Foundation, The Raymond Family Foundation and Every Dog Has Its Day Care**

From: City Manager

Recommendation: Adopt a Resolution approving donations to the Animal Shelter in the sum of \$10,000 from the Stephen and Mary Birch Foundation, \$5,000 from the Chao Foundation, \$2,500 from the Raymond Family Foundation and \$2,770 from Every Dog Has Its Day Care.

Financial Implications: Animal Shelter Donation Fund - \$20,270 (donation)

Contact: Kate O'Connor, Animal Shelter Manager, 981-6600

6. **Formal Bid Solicitation and Request for Proposal Scheduled For Possible Issuance in the Next 30 Days**

From: City Manager

Recommendation: Approve the request for proposals or invitation for bids (attached to staff report) that will be, or are planned to be, issued upon final approval by the requesting department or division. All contracts over the City Manager's threshold will be returned to Council for final approval.

Financial Implications: General Fund - \$150,000

Contact: Robert Hicks, Finance, 981-7300

7. **Contract: Intermedix for Ambulance Billing Service**

From: City Manager

Recommendation: Adopt a Resolution authorizing the City Manager to execute a contract and any amendments with Intermedix to provide ambulance billing service for Berkeley Fire Department from April 1, 2012 to March 31, 2014 in an amount of \$400,000 with an option to extend for four additional years in two-year increments in a total contract amount not to exceed \$1,200,000. The contract fee will be 4.75% of the total revenue collected.

Financial Implications: See report

Contact: Debra Pryor, Fire, 981-3473

Consent Calendar

8. **Donation: Alameda County Meals on Wheels Agency for the Berkeley Meals on Wheels Program**
From: City Manager
Recommendation: Adopt a Resolution accepting a \$10,178 donation to the Berkeley Meals on Wheels program from the Alameda County Meals on Wheels Agency.
Financial Implications: One Time Funding-Non Grant - \$10,178 (donation)
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
9. **Grants: California Department of Public Health for the Immunization Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept grant funds from the California Department of Public Health (CDPH) for the Immunization Program in the amount of \$41,438 per year for two years, July 1, 2011 through June 30, 2013 for a total award amount of \$82,876 to conduct immunization activities and related services; and to execute the resultant revenue agreements, contracts, and any amendments and extensions.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
10. **Grants: California Department of Public Health for the Women, Infants and Children Program**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept grant funds from the California Department of Public Health (CDPH) for the Women, Infants and Children (WIC) Program in the amount of \$467,077 per federal fiscal year for three years, October 1, 2011 through September 30, 2014, for a total award amount of \$1,401,231 to conduct WIC activities and related services; and to execute the resultant revenue agreements, contracts, and any amendments and extensions.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
11. **Grants: California Department of Public Health for Tuberculosis Local Assistance Subvention and Base Award Augmentation**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept continuation grant funds from the California Department of Public Health (CDPH) in the amount of \$39,020 (Local Assistance and Subvention) and \$3,300 (Base Award Augmentation) for one year, July 1, 2011 through June 30, 2012; to conduct public health tuberculosis surveillance, control, and prevention services; to execute the resultant revenue agreements, contracts, and any amendments and extensions; and to authorize the implementation of grant activities and appropriation of funding for related expenses.
Financial Implications: See report
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400

Consent Calendar

12. **Contract: Gonsalves & Stronck Construction Inc. for Construction of the South Branch Library**
From: City Manager
Recommendation: Adopt a Resolution:
1. Approving plans and specifications for the Berkeley Public Library South Branch Improvement Project;
 2. Reject the nonresponsive bid by Cal-Pacific Construction Inc.;
 3. Accepting the bid of Gonsalves & Stronck Construction Inc.; and
 4. Authorizing the City Manager to execute a contract, and any amendments, extensions or change orders until completion of the project in an amount not to exceed \$4,963,000 which includes a contingency of approximately 7.5%.
- Financial Implications:** See report
Contact: Donna Corbeil, Library, 981-6100
13. **Berkeley Redevelopment - Amendment to the Enforceable Obligation Payment Schedule**
From: City Manager
Recommendation: Acting as the Successor Agency for the Berkeley Redevelopment Agency, adopt a Resolution approving amendments to the Enforceable Obligation Payment Schedule.
Financial Implications: See report
Contact: Wendy Cosin, Planning and Development, 981-7400
14. **Berkeley Redevelopment - Recognized Obligation Payment Schedule**
From: City Manager
Recommendation: Acting as the Successor Agency for the Berkeley Redevelopment Agency, adopt a Resolution approving a Recognized Obligation Payment Schedule.
Financial Implications: See report
Contact: Wendy Cosin, Planning and Development, 981-7400
15. **Accept Offered and/or Donated Office Furniture and Equipment**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to accept freely offered and/or donated furniture and office equipment to furnish City offices, as needed.
Financial Implications: See report
Contact: Andrew Clough, Public Works, 981-6300
16. **Contract: Siemens Industry, Inc. for Fire and Life Safety Systems Maintenance**
From: City Manager
Recommendation: Adopt a Resolution authorizing the City Manager to execute a sole source contract with Siemens Industries, Inc. to provide monitoring and repairs for essential fire and life safety systems and monitoring equipment for an amount not to exceed \$106,000 for the period March 1, 2012 through September 30, 2014.
Financial Implications: Various Funds - \$106,000
Contact: Andrew Clough, Public Works, 981-6300

Council Consent Items

- 17. Life Long Medical: Relinquishment of Council Office Budget Funds to General Fund and Grant of Such Funds**
From: Mayor Bates
Recommendation: Adopt a Resolution approving the expenditure of an amount not to exceed \$500 per Councilmember including \$500 from Mayor Bates to Life Long Medical with funds relinquished to the City's general fund for this purpose from the discretionary Council Office Budgets of Mayor Tom Bates and any other Councilmembers who would like to contribute.
Financial Implications: Mayor's Discretionary Fund - \$500
Contact: Tom Bates, Mayor, 981-7100
- 18. Request for Proposals to Lease 2134 Martin Luther King Way**
From: Mayor Bates
Recommendation: Request the City Manager to develop a request for proposals to lease 2134 Martin Luther King Way (Maudelle Shirek Building) with terms and conditions to be determined by the City Manager.
Financial Implications: Unknown
Contact: Tom Bates, Mayor, 981-7100
- 19. Honoring Ms. Magazine on the 40th Anniversary of the Publication**
From: Mayor Bates and Councilmember Maio
Recommendation: Adopt a Resolution honoring Ms. Magazine for 40 years of being a salient voice for women's issues in the US.
Financial Implications: None
Contact: Tom Bates, Mayor, 981-7100
- 20. Celebrating March 20 to April 23, 2012 as the Cesar E. Chavez Commemoration Period in the City of Berkeley**
From: Mayor Bates and Councilmembers Arreguin and Worthington
Recommendation: Adopt a proclamation marking March 20-April 23 2012 as "The Cesar E. Chavez Commemoration Period" and present it at the City Council meeting on March 20, 2012.
Financial Implications: None
Contact: Tom Bates, Mayor, 981-7100
- 21. Amend the Constitution to End Corporate Personhood**
From: Councilmember Arreguin
Recommendation: Adopt a Resolution urging our federal representatives to amend the constitution to end corporate personhood.
Financial Implications: None
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 22. Referral to City Manager: Parking Signage Clarity**
From: Councilmember Arreguin
Recommendation: Refer to the City Manager the concept of creating a staff level working group, with consultation with the Transportation Commission, to review parking signs for clarity and efficacy and request that the City Manager provide a recommendation on improving parking signage no later than December 18, 2012.
Financial Implications: Unknown
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140

Council Consent Items

- 23. Urging UCSF to Approve Kidney Transplant for Jesus Navarro**
From: Councilmember Arreguin
Recommendation: Send a letter to the UCSF urging them to reconsider its decision to deny Jesus Navarro a life-saving kidney transplant.
Financial Implications: Unknown
Contact: Jesse Arreguin, Councilmember, District 4, 981-7140
- 24. Scheduling a Presentation on an Affordable Housing Survey**
From: Councilmembers Capitelli and Moore
Recommendation: Allow 15 minutes at the March 20, 2012 regular meeting (or in conjunction with a workshop - to be determined by the Agenda Committee) for a presentation on an affordable housing survey recently completed by interns in the offices of Councilmembers Capitelli and Moore.
Financial Implications: None
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150
- 25. Proclamation Recognizing March 2012 as Women's History Month**
From: Councilmembers Wengraf and Maio
Recommendation: Approve a proclamation recognizing the month of March 2012 as Women's History Month.
Financial Implications: None
Contact: Susan Wengraf, Councilmember, District 6, 981-7160
- 26. Ban Agricultural Use of Methyl Iodide in California**
From: Councilmember Worthington
Recommendation: Send the Director of California's Department of Pesticide Regulation (DPR), Brian Leahy, a letter urging the banning of methyl iodide in agricultural uses.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
- 27. City Manager Referral on the Telegraph Livability Coalition's Proposals and Schedule a Worksession**
From: Councilmember Worthington
Recommendation: Refer to the City Manager the Telegraph Livability Coalition's Proposals and Schedule a Worksession.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170
- 28. End the Unfair Unemployment Penalty on Student Loans**
From: Councilmember Worthington
Recommendation: Send a letter to Sallie Mae, Inc to drop the Forbearance Fee.
Financial Implications: Minimal
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Council Consent Items

29. **Stop the American Family Association's Hate Campaign Against Ellen DeGeneres**
From: Councilmember Worthington
Recommendation: Send a letter thanking J.C. Penny for standing up against the hate campaign.
Financial Implications: None
Contact: Kriss Worthington, Councilmember, District 7, 981-7170

Action Calendar

After the initial ten minutes of public comment on non-agenda items and public comment and action on consent items, the public may comment on each remaining item listed on the agenda for action as the item is taken up. Where an item was moved from the Consent Calendar to Action no speaker who has already spoken on that item would be entitled to speak to that item again.

The Presiding Officer will request that persons wishing to speak line up at the podium to determine the number of persons interested in speaking at that time. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Presiding Officer may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes. The Presiding Officer may, with the consent of persons representing both sides of an issue, allocate a block of time to each side to present their issue.

Action Calendar – Old Business

30. **Referral: Feasibility of Expanded Plastic Recycling in Berkeley (Continued from February 14, 2012)**
From: Councilmembers Wozniak, Wengraf and Mayor Bates
Recommendation: Refer to the Zero Waste Commission (ZWC) to investigate the feasibility of expanding the types of plastics that the City collects and recycles, and report findings and recommendations back to the City Council.
Financial Implications: None
Contact: Gordon Wozniak, Councilmember, District 8, 981-7180

Action Calendar – New Business

31. **Discussion and Direction Regarding Potential Ballot Measures for the November 6, 2012 General Municipal Election**
From: City Manager
Recommendation: Discuss possible ballot measures for the November 2012 election and provide direction to the City Manager about which issues to include in a community survey.
Financial Implications: See report
Contact: Christine Daniel, Interim City Manager, 981-7000

Information Reports

32. **Commercial Façade Improvement Grant Program (CFIGP) Close-Out Report**
From: City Manager
Contact: Michael Caplan, Economic Development, 981-7530

Information Reports

33. **48/96 Schedule Information Report - 3rd Quarter**
From: City Manager
Contact: Debra Pryor, Fire, 981-3473
34. **Audit - Mental Health Adult Clinic Surprise Cash Count: Client Funds Could be Lost, Stolen or Misused**
From: City Manager
Contact: Jane Micallef, Health, Housing and Community Services, 981-5400
35. **Report on Regional Bodies Participation: Alameda County Lead Poisoning Prevention Program**
From: Councilmember Anderson
Contact: Max Anderson, Councilmember, District 3, 981-7130
36. **Report on Regional Bodies Participation: The Alameda County Transportation Commission and the Countywide Transportation Plan**
From: Councilmember Capitelli
Contact: Laurie Capitelli, Councilmember, District 5, 981-7150

Public Comment – Including Items Not Listed on the Agenda –

Adjournment in Memory of:

- Marian Rosen

NOTICE CONCERNING YOUR LEGAL RIGHTS: *If you object to a decision by the City Council to approve or deny a use permit or variance for a project the following requirements and restrictions apply: 1) No lawsuit challenging a City decision to deny (Code Civ. Proc., 1094.6(b)) or approve (Gov. Code 65009(c)(5)) a use permit or variance may be filed more than 90 days after the date the Notice of Decision of the action of the City Council is mailed. Any lawsuit not filed within that 90-day period will be barred. 2) In any lawsuit that may be filed against a City Council decision to approve or deny a use permit or variance, the issues and evidence will be limited to those raised by you or someone else, orally or in writing, at a public hearing or prior to the close of the last public hearing on the project.*

Live captioned broadcasts of Council Meetings are available on Cable B-TV (Channel 33), via internet accessible video stream at <http://www.ci.berkeley.ca.us/video> and KPFB Radio 89.3.

Archived indexed video streams are available at <http://www.ci.berkeley.ca.us/citycouncil>.
Channel 33 rebroadcasts the following Wednesday at 9:00 a.m. and Sunday at 9:00 a.m.

Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at the public counter at the City Clerk Department located on the first floor of the civic center located at 2180 Milvia Street as well as posted on the City's website at <http://www.cityofberkeley.info>.

Agendas and agenda reports may be accessed via the Internet at <http://www.ci.berkeley.ca.us/citycouncil> and may be read at reference desks at the following locations:

City Clerk Department
2180 Milvia Street
Tel: 510-981-6900
TDD: 510-981-6903
Fax: 510-981-6901
Email: clerk@ci.berkeley.ca.us

Libraries:
Main - 2090 Kittredge Street
West Branch – 1125 University
South Branch – 1901 Russell

COMMUNICATION ACCESS INFORMATION:

This meeting is being held in a wheelchair accessible location.

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at 981-6346(V) or 981-7075 (TDD) at least three business days before the meeting date.

Please refrain from wearing scented products to this meeting.



Captioning services are provided at the meeting, on B-TV, and on the Internet. In addition, assisted listening devices for the hearing impaired are available from the City Clerk prior to the meeting, and are to be returned before the end of the meeting.

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***I hereby certify that the agenda for this meeting of the Berkeley City Council was posted at the display case located near the walkway in front of Council Chambers, 2134 Martin Luther King Jr. Way, as well as on the City's website, on February 16, 2012.***

A handwritten signature in black ink, appearing to read 'Mark Numainville'.

Mark Numainville, Acting City Clerk

## Communications

*Council rules limit action on Communications to referral to the City Manager and/or Boards and Commissions for investigation and/or recommendations. All communications submitted to Council are public record.*

### **Berkeley & Wells Fargo**

1. Sharon Hoffmann
2. Colleen Kinerk
3. John K.

### **Comments on Berkeley**

4. Tadamori Yagi

### **Sewer Lateral Ordinance Update**

5. Rhiannon